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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Ariel Montes-Deoca,  
10 Plaintiff,

11 v.

12 Mark D Napier, et al.,  
13 Defendants.  
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No. CV-20-00013-TUC-DCB

**ORDER**

15 On July 21, 2021, this Court screened the Plaintiff's Second Amended Complaint  
16 (SAC). (Order (Doc. 24)). Plaintiff's SAC alleges that on November 23, 2018, he saw  
17 Defendant Streubing and complained of "seeing dark spots right eye/blurred vision for 4-  
18 5 days" and "[d]enied injury/trauma." *Id.* at 4. Defendant Streubing's examination found  
19 "'Alteration (of) sensory vision,'" and he planned to "'schedule [Plaintiff] for optometry.'" *Id.*  
20 The referral to optometry did not immediately occur and over the next several days,  
21 Plaintiff's eye condition worsened. He submitted at least two more written requests to be  
22 examined and treated, and on November 30, 2018, Plaintiff submitted a request for medical  
23 attention, stating, "My eye is really bad now. I cannot see out of it at all." *Id.* In December  
24 the Plaintiff saw Defendant Doe 1 and reported a loss of vision in his right eye, but  
25 Defendant Doe 1 did not believe Plaintiff's reported symptoms and did nothing. Plaintiff  
26 alleges that Defendant Doe 1's failure to refer him for emergency/specialized treatment  
27 constituted an intentional or reckless disregard of his constitutional rights secured. Plaintiff  
28 alleges additional alleged negligent conduct by other Defendants occurred until finally,

1 after a surgery performed on January 31, 2019, it “‘was ‘too late in the progression of  
2 [Plaintiff’s] condition,’ the surgery was unsuccessful, resulting in a complete, presently  
3 uncorrectable loss of vision in Plaintiff’s right eye.” *Id.* at 6.

4 In the screening Order, the Court allowed the Fourteenth Amendment medical care  
5 claim against Doe 1 to proceed but instead of requiring service of the SAC on Defendant  
6 Doe 1, the Court allowed the Plaintiff 120 days to conduct discovery to identify the  
7 unknown identity and actual name of Defendant Doe 1. The Court directed that the Plaintiff  
8 shall substitute Doe 1’s actual name by filing a “notice of substitution” or the claims against  
9 Doe 1 shall be dismissed by the Clerk of the Court.

10 The Court has reviewed the record in the case and finds that there has been no  
11 substitution for Defendant Doe 1.

12 **Accordingly,**

13 **IT IS ORDERED** that, pursuant to the prior directives contained in the Screening  
14 Order (Doc. 24), the Clerk of the Court shall dismiss the Defendant Doe 1.

15 Dated this 30th day of November, 2021.

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Honorable David C. Bury  
United States District Judge